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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,304	03/29/2001	Alain Brochez	BROC3001/JEK	6723
7590 Bacon & Thomas 4th Floor 625 Slaters Lane Alexandria, VA 22314				
04/16/2010				
EXAMINER MACARTHUR, VICTOR L				
ART UNIT		PAPER NUMBER		
3679				
MAIL DATE		DELIVERY MODE		
04/16/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary

Application No.

09/806,304

Applicant(s)

BROCHEZ, ALAIN

Examiner

VICTOR MACARTHUR

Art Unit

3679

All participants (applicant, applicant's representative, PTO personnel):

(1) VICTOR MACARTHUR.

(3) _____.

(2) Patrick Buechner.

(4) _____.

Date of Interview: 13 April 2010.

Type: a) ☒ Telephonic b) ☐ Video Conference

c) ☐ Personal (copy given to: 1) ☐ applicant 2) ☐ applicant's representative

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: 85 and 88.

Identification of prior art discussed: Art of Record.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Victor MacArthur/
Primary Examiner, Art Unit 3679

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner.
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Mr. Buechner argued that appendix C of remarks filed 3/15/2010 set forth criticality with test results showing that applicant's invention could be stressed to 800N without destruction whereas prior art inserts could no longer function as intended after such stressing. The examiner pointed out that appendix C was in a foreign language and thus is not proper evidence without a translation. Further, the examiner pointed out that even if such a translation stated what applicant argued, it appears that the test results states nothing of whether or not the claimed triangular shape is responsible for the performance or some other aspect of the insert. The examiner noted that the obviousness rejection of the previous Office Action stated that it was obvious to change shape of the notch to be triangular. Accordingly, applicant must provide evidence of criticality of the notch shape being triangular over any other shape. The examiner suggested reviewing MPEP 716.01(c) JI through 716.02(d) regarding evidence of criticality (unexpected result).

Mr. Buechner argued that the prior art did not suggest "minimal contact" between the insert and outer wall. The examiner stated that no specific amount of "contact", minimal or otherwise, is recited in the claims. Mr. Buechner argued that that lines 18-20 of claim 85 stated "the corner piece comprising inclined parts defining a pressure zone between the lips and a place on the inner wall which is situated deeper..." and that the recited "inclined" phrase in particular inherently required a minimal contact. The examiner pointed out that there are any number of ways to have inclined parts as recited and not have minimal contact, for instance wherein the outer wall is deformed to completely conform and contact an inclined insert. The examiner pointed out that the claim did not recite any specific reference frame from which the parts should be considered to be inclined from thereby rendering the limitation extremely broad (inclined with respect to any element).

The examiner noted that claim 88 was indicated as being allowable and suggested an examiner's amendment incorporating the limitations of claim 88 into claim 85. Mr. Buechner stated that applicant was not willing to accept such an allowance since the resulting protection would be too narrow. The examiner strongly suggested carefully reviewing all the art of record and then talking to applicant and then amending the claims such that there is a single independent claim that is the most broad that applicant feels he has a right to over the art of record (not just the art applied in the previous Office Action rejections) and then in dependent form reciting all limitations that applicant would be willing to accept in an allowance. The examiner pointed out that this procedure for writing claims is specifically suggested in the MPEP such that all issues can be addressed as soon as possible in the prosecution (compact prosecution). The examiner noted that the fact that applicant was unwilling to accept claim 88 in an allowance seemed to indicate that the claims have not been amended in this spirit of compact prosecution. The examiner suggested that limitations that applicant is unwilling to accept not be included in the claims in order to increase efficiency of prosecution.

Applicant asked the examiner for a chance to file another amendment prior to the examiner sending out an additional Office Action. The examiner stated that currently he would not be able to get to the applicant's case for about a month but could not guarantee that docketing conditions wouldn't change thereby necessitating the examiner to respond to applicant's 3/15/2010 filing before then.